

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
Deputy Attorney General
4 State Bar No. 171352
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2614
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **TERESITA C. BOLONG**
13 **28819 Crestridge Road**
14 **Rancho Palos Verdes, CA 90275**

15 **Registered Nurse License No. 220963**

16 Respondent.

Case No. **2010-595**

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about December 31, 1971, the Board of Registered Nursing issued Registered
24 Nurse License Number 220963 to Teresita C. Bolong (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on November 30, 2011, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has

1 elapsed, or the judgment of conviction has been affirmed on appeal or when an
2 order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under the provisions of Section 1203.4 of the
4 Penal Code allowing such person to withdraw his or her plea of guilty and to enter
5 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
6 accusation, information or indictment.

7
8 9. Section 482 of the Code states:

9 Each board under the provisions of this code shall develop criteria to
10 evaluate the rehabilitation of a person when:

11 ...

12 (b) Considering suspension or revocation of a license under Section 490.

13 Each board shall take into account all competent evidence of rehabilitation
14 furnished by the applicant or licensee.

15 10. Section 490 of the Code states:

16 (a) In addition to any other action that a board is permitted to take against a
17 licensee, a board may suspend or revoke a license on the ground that the licensee
18 has been convicted of a crime, if the crime is substantially related to the
19 qualifications, functions, or duties of the business or profession for which the
20 license was issued.

21 (b) Notwithstanding any other provision of law, a board may exercise any
22 authority to discipline a licensee for conviction of a crime that is independent of
23 the authority granted under subdivision (a) only if the crime is substantially related
24 to the qualifications, functions, or duties of the business or profession for which
25 the licensee's license was issued.

26 (c) A conviction within the meaning of this section means a plea or verdict
27 of guilty or a conviction following a plea of nolo contendere. Any action that a
28 board is permitted to take following the establishment of a conviction may be
taken when the time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal, or when an order granting probation is made suspending the
imposition of sentence, irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this
section has been made unclear by the holding in *Petropoulos v. Department of
Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has
placed a significant number of statutes and regulations in question, resulting in
potential harm to the consumers of California from licensees who have been
convicted of crimes. Therefore, the Legislature finds and declares that this section
establishes an independent basis for a board to impose discipline upon a licensee,
and that the amendments to this section made by Senate Bill 797 of the 2007 -08
Regular Session do not constitute a change to, but rather are declaratory of,
existing law.

1 11. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or
4 to suspend or revoke a license or otherwise take disciplinary action against a
5 person who holds a license, upon the ground that the applicant or the licensee has
6 been convicted of a crime substantially related to the qualifications, functions, and
7 duties of the licensee in question, the record of conviction of the crime shall be
8 conclusive evidence of the fact that the conviction occurred, but only of that fact,
9 and the board may inquire into the circumstances surrounding the commission of
10 the crime in order to fix the degree of discipline or to determine if the conviction is
11 substantially related to the qualifications, functions, and duties of the licensee in
12 question.

13 As used in this section, "license" includes "certificate," "permit,"
14 "authority," and "registration."

15 REGULATIONS

16 12. California Code of Regulations, title 16, section 1444, states:

17 A conviction or act shall be considered to be substantially related to the
18 qualifications, functions or duties of a registered nurse if to a substantial degree it
19 evidences the present or potential unfitness of a registered nurse to practice in a
20 manner consistent with the public health, safety, or welfare.

21 13. California Code of Regulations, title 16, section 1445, states in pertinent part:

22 ...

23 (b) When considering the suspension or revocation of a license on the
24 grounds that a registered nurse has been convicted of a crime, the board, in
25 evaluating the rehabilitation of such person and his/her eligibility for a license will
26 consider the following criteria:

27 (1) Nature and severity of the act(s) or offense(s).

28 (2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section
1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

1 COSTS

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 FIRST CAUSE FOR DISCIPLINE

7 (November 17, 2009 Criminal Conviction for Illegal

8 Kickbacks for Patient Referrals from 2001 to 2006)

9 15. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) in
10 that she was convicted of a crime substantially related to the qualifications, functions, and duties
11 of a registered nurse. The circumstances are as follows:

12 16. On or about November 17, 2009, in a criminal proceeding entitled *United States of*
13 *America v. Teresita Cagudala Bolong*, in the United States District Court for the Central District
14 of California, Case No. SA CR 09-123, Respondent was convicted on her plea of guilty to
15 violating Title 42, United States Code, Section 1320a-7b(b)(1)(A) (illegal kickbacks for patient
16 referrals), a felony.

17 17. On or about November 17, 2009, Respondent was sentenced to six (6) months in
18 prison, ordered to pay restitution in the amount of \$108,000, pay a fine of \$17,000 and pay a
19 special assessment of \$100. Upon release from prison, Respondent will be subject to two (2)
20 years of supervised release under various terms and conditions of the United States Probation
21 Office.

22 18. The circumstances regarding the incident are that from in or around 2001 through
23 2006, Respondent and her husband owned and operated a number of board and care facilities in
24 Los Angeles County and Orange County, California, including Bay Breeze, Chateau, Woodruff,
25 Founders House, Windsor Hall, New Horizon, and Villa Redondo. In 2001, Respondent was
26 introduced to G.M., a marketer for a respiratory company called Professional & Respiratory Care
27 Services (PRCS). Respondent requested that G.M. pay her \$100 per resident per month for
28 access to the residents at Bay Breeze to bill respiratory services to Medicare. G.M. agreed and

1 paid Respondent \$100 per resident per month for access to residents at Bay Breeze to bill
2 respiratory services to Medicare. As part of the process, Respondent provided the residents'
3 health insurance information, including Medicare numbers, to G.M. and/or PRCS. PRCS doctors
4 then billed Medicare for respiratory services to residents at Bay Breeze.

5 19. Approximately six months into paying kickbacks to Respondent for access to
6 residents at Bay Breeze, Respondent asked G.M. if he wanted access to more facilities and
7 requested \$100 per resident per month for access to the residents at Chateau. G.M. agreed and
8 paid Respondent \$100 per resident per month for access to the residents at Chateau to bill
9 respiratory services to Medicare. Eventually, Respondent brought G.M. into her other facilities as
10 well, including Windsor, Founders House, Woodruff, and New Horizon, each time requesting the
11 same amount in kickbacks, \$100 per resident per month, which G.M. paid to Respondent. In
12 total, G.M. paid Respondent approximately \$2,000 to \$2,500 per month in cash from 2001
13 through early 2006, totaling approximately \$96,000 to \$120,000.

14 SECOND CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct – Fraud and Deceit)

16 20. Respondent is subject to disciplinary action under Code section 2761(a) in that she
17 engaged in unprofessional conduct when she solicited illegal kickbacks for patient referrals as
18 more specifically set forth in paragraphs 16 through 19 above, and incorporated herein by
19 reference as though fully set forth herein.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 220963, issued to
24 Teresita C. Bolong;

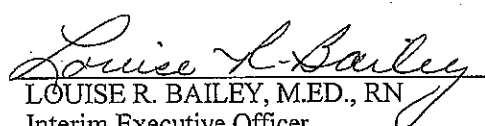
25 2. Ordering Teresita C. Bolong to pay the Board of Registered Nursing the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3; and

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2010800148
80458649.doc